

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ROGELIO SERRATO, DECEASED,
THROUGH HIS SUCCESSORS IN
INTEREST, JULIAN SERRATO and ISRAEL
SERRATO, minors, by and through their
grandmother and Next Friend, LISA
MAGDALENO; and JULIAN SERRATO
AND ISRAEL SERRATO, by and through
their Next Friend, LISA MAGDALENO,
individually,

Plaintiff,

v.

MONTEREY COUNTY, a public entity,
SHERIFF SCOTT MILLER, individually and
in his official capacity; CAPTAIN CHARLES
MONARQUE, individually and in his official
capacity; COMMANDER KEVIN OAKLEY,
individually; SERGEANT GARRETT
SANDERS, individually; SERGEANT
JOSEPH BANUELOS, individually;
SERGEANT RANDY RAGSAC, individually;
DETECTIVE AL MARTINEZ, individually;
DEPUTY MARK SIEVERS, individually, and
DOES 1-10, individually, jointly and severally,

Defendant.

Case No. C-11-03642 RMW (PSGx)

**ORDER DENYING CROSS-MOTIONS
FOR SUMMARY JUDGMENT**

[Re Docket No. 23, 32]

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2 The parties' cross-motions for summary judgment are DENIED because the court finds
3 that there are disputed issues of material fact.

4 As to defendants' cross-motion on the basis of qualified immunity, under the
5 circumstances of this case, when all disputed issues of fact are resolved in plaintiffs' favor, the
6 contours of the law pertaining to the use of excessive force are sufficiently clear such that a
7 reasonable officer would have understood that his use of the flash-bang was an excessive use of
8 force.

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11 Dated: February 22, 2013


Ronald M. Whyte
United States District Court Judge